IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

CIVIL APPLICATION NO. 3086 OF 2006
IN
WRIT PETITION NO. 1894 OF 2006

Abdul Samad Memon .... Petitioner

versus

Manager, Mahanagar Telephone Nikam ..... Reswpondent.

Shri Jaiprakash Sawant for the petitioner
Ms. Neeta Masurkar for the respondent.

CORAM; A.P. DESHPANDE, J.
DATED; 11TH JUNE, 2007

P.C.;

1. Answering a reference in the affirmative, the Central Government Industrial Tribunal by its award dated 19-10-2005 has directed the employer to reinstate the applicant employee in service with effect from 20-2-2002. The respondent employer then preferred a writ petition wherein rule has been granted and interim relief in terms of prayer clause (b) is also granted. In view of the grant of interim relief, staying reinstatement, the applicant employee has filed an application under section 17(b) of Industrial Dispute Act. In the application it is categorically stated that the applicant is not

employed in any establishment since his termination from service. In the application it is also stated that the affidavit to this effect was filed on 5-4-2006. However a further affidavit in support of the application has been filed by the applicant on 20-3-2007. The respondent has filed a reply opposing the application by contending that the applicant is carrying on his small business and thus he has in gainfull employment. A report of the enquiry officer is also placed on record wherein the officer of the respondent has stated that he visited the premises and was informed that the applicant is a resident of the address and is carrying on small business. It is then stated that it is his interim report and efforts are being made to obtain information which would be submitted shortly. Report is dated 9-1-2007. No further report is available on record.

2. Perusal of section 17(b) reveals that the employee is obliged to file affidavit in support of his contention that he is not gainfully employed. In the present case, the employee has complied with the provisions of section 17(b). Hence I direct the respondent employer to pay the applicant wages equal to the last drawn wages with effect from the date of the application. Civil Application is accordingly disposed of.

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